IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1423 OF 2001

Eagle Flask Industries Ltd. ... Petitioner
Versus
State of Maharashtra and Ors. ... Respondents

Mr. Nilesh Tate i/by M/s. Mahimtura & Co. for Petitioner.
Mrs. M.P. Thakur, A.G.P. for R. Nos. 1 and 3.
Mr. A.V. Anturkar for R. No. 2.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD,JJ.
DATED : JANUARY 27, 2006

P.C.

. Rule. Heard forthwith.

. In answer to the Petition, on behalf of the Respondent No. 2, Municipal Council, Mr.Sudhir Raut has filed an affidavit dated 10th June, 201. Considering the alternative proposal given by the Petitioner in Para 3, it was set out that Petitioner will withdraw the C.R.A. Mo. 880 of 2001. That has been done.

. The second requirement was that the Petitioner should give an undertaking that in the eventuality Respondent No. 1 Sate of Maharashtra rejects the proposal, then the Petitioner within the period of two weeks from the day, by which State of Maharahstra communicates the order of rejection to the Petitioner,

will remove the offending structures at the cost of the Petitioners. It is pointed out that till date, the said undertaking has not been filed.

. However, considering the facts and circumstances, if the Petitioner within four weeks from today files the undertaking in this court in the present petition and endorses a copy to the learned counsel for respondent, then considering the averments in Para 2 of the affidavit, the Municipal Council to follow the procedure under section 37 of the M.R.T.P. Act and consider the same as per provisions of Section 37 of M.R.T.P. Act and forward the same to Respondent No.1 . If this proposal is initiated in terms of what has been set out as Condition No. 3 in Para 3 of the affidavit, the respondent not to demolish the offending structures untill the procedure of section 37 has been completed.

. If however, the Petitioners fail to comply and file undertaking within four weeks from today, it will be open to the respondents to take steps in law including demolition of the offending structures.

. Rule made partly absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)

(DR. D.Y. CHANDRACHUD,J.)